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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,634	10/15/2001	Kiyofusa Egashira	JP920000319US1	3272

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Ronald A. D' Alessandro, Esq.
Hoffman, Warnick & D' Alesandro LLC
Three E-Comm Square
Albany,, NY 12207

EXAMINER

POND, ROBERT M

ART UNIT PAPER NUMBER

3625

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/977,634

Applicant(s)

EGASHIRA ET AL.

Examiner

Robert M. Pond

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection.

Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on 13 October 2006 has been entered.

Response to Amendment

The Applicant amended claims 1 and 6. All pending claims 1-10 were examined in this non-final office action.

Response to Arguments

Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection. Fisher was withdrawn as the base reference.

USC 112 Sixth Paragraph Notification

Applicant has provided means-plus function language and means-plus function language subsequently modified that destroys the intent of means-plus

function language in claim 6, which could be construed as having a narrower meaning emanating from specific embodiments found in the specification. Since it is the applicant's responsibility to invoke USC 112 6th paragraph, the examiner will treat the claims using the broadest reasonable interpretation unless the applicant responds to the office action invoking USC 112 6th paragraph and identifying the exact limitations that the applicant is reading into the claims from the specification. Please be advised that should the applicant invoke USC 112 6th paragraph in response to this office action the response may still be made final using the rationale that the applicant has added new subject matter to the claims that require further search and/or consideration. A lack of response to this notice will be construed as prosecution history estoppel indicating that the applicant does not wish to invoke USC 112 6th paragraph.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 1. Claims 1-10 are rejected under 35 USC 103(a) as being unpatentable over Brodsky (US 6,751,597) in view of Fisher (Paper # 20051223, US 5,835,896).**

Brodsky teaches facilitating electronic commerce through adaptive trade specifications (ATS) and matchmaking optimization spanning the supply chain. Given a set of trader's ATS, the matchmaking (MM) optimization methods recommend specific transactions with other traders (i.e. against their ATS's) that are mutually agreeable and optimized the objective of the trader's ATS (e.g. minimal price for a buyer, maximal profit for a seller). The recommended set of transactions will indicate exactly with whom the transaction should be made, the exact GIVE and TAKE items and their quantities, as well as other relevant parameters (e.g. price and profit). Brodsky teaches optimization methods that can recommend a set of buyers ATS's interested in a seller's products and a set of supplier ATS's necessary to supply the seller so that the seller's maximal profit objective is achieved (see at least abstract; col. 11, lines 34-54). ATS's formed through the use of wizards are input to the ATS matchmaker computer (see at least Fig. 1; Fig. 2; col. 1, line 5 through col. 5, line 60; col. 6, lines 20-42).

Brodsky further teaches:

- obtaining supply information including a plurality of supply quantities and a supply price that depends for each supply quantity that indicates a supply cost from at least one commodity supplier for a particular commodity item and arranging the information into a supply list for storage in a database, wherein the supply price lowers as the supply quantity increases; supplier constructs its ATS indicating profit objectives using quantity, pricing, and costs as parameters (see at least col. 4, line 44-53); stored in database

(see at least Fig. 2 (201); Fig. 5A (501-519); col. 6, line 20 through col. 7, line 33); uses supplier wizard (see at least Fig. 1 (111); col. 6, lines 23-38).; volume buyers; supplier offering volume discounts (i.e. price lowers as quantity increases) (see at least col. 1, lines 40-42, 48-50).

- receiving purchase wish information including a desired purchase price and a desired purchase quantity for said particular commodity item from intending purchasers through a network for a predetermined period of time; storing the received purchase wish information in said database; receives purchase information via an ATS based electronic mall, ATS based electronic auction (see at least Fig. 1 (101, 103, 105); col. 6, lines 23-42); time deadline as auction parameter; delivery time (see at least col. 2, lines 50-51; col. 11, line 25-28).
- after said predetermined period of time, collecting said purchase wish information stored in said database and producing a purchase wish list having the information arranged in a predetermined order; finds minimums and maximums of each ATS (please note: predetermined order created when determining maximum or minimums) (see at least col. 11, line 65 through col. 12, line 17).
- selecting an optimum combination of intending purchasers, selling quantities, selling prices, commodity suppliers, supply quantities, and supply prices by comparing only the desired purchase price and the desired purchase quantity of said purchase wish list with the supply price

and supply quantity of said supply list by calculating a total profit using an iterative aggregation of profit for each additional intending purchaser; as noted above optimizes objective spanning the supply chain of buyers, sellers, suppliers using price, cost, profit, quantity, and/or time as ATS constraints for each trader; helps a buyer achieve minimal total cost (see at least col. 5, lines 35-38; col. 11, lines 30-31).

Brodsky teaches all the above as noted under the 103(a) rejection and teaches a) delivery time as a constraint, b) trader's submitting bids and offers in an electronic marketplace for the purpose of exchanging goods/materials, c) implements a system that does not automatically disqualify a buyer based on price, and further discloses d) an ATS-based electronic marketplace comprising electronic auctions, electronic malls, or other commerce environment, and e) comparisons against Ariba, CommerceOne, Commerce Exchange, and Ebay, but does not disclose transmitting a purchase admission notification to the intending purchasers selected in said selecting step. Fisher teaches a system and method for conducting a multi-bidder, interactive auction (see at least abstract; Fig. 1 and 2). Fisher teaches a) obtaining supply information from at least one supplier and storing and storing supplier's minimum bid and supplier's list price (see at least Fig. 2; Fig. 4 (30); Figs. 9-11 (93); col. 6, lines 20-30; col. 10, lines 12-14), b) receiving purchase wish information and storing bidder submits bids (see at least Fig. 2 (Current high bidder's table); Fig. 4 (31); Fig. 5 (46); Fig. 9 (91); Fig. 10 (111); Fig. 11 (131); col. 7, lines 42-49; col. 10, lines 6-

62); c) predetermined time period such as bid closing and "over a period of time" (see at least col. 4, lines 20-25); and c) selecting optimum combination; comparing the desired purchase price and desired purchase quantity by ranking bids in descending order by price (see at least Fig. 9 (91); Fig. 10 (111)), ranking bids in descending order by price and quantity (see at least Fig. 11 (131)), and accumulating rolling quantity for commodity quantity allocation (see at least Figs. 9-12 (94)), and further teaches transmitting notification: notification on bids to keep participants updated (please note: prudent customer convenience) (see at least Fig. 4 (24, 27); col. 8, lines 15-29). Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify Brodsky to transmit notification to intending purchasers as taught by Fisher, in order to keep intending purchasers updated, and thereby provide a prudent purchaser convenience.

Pertaining to claims 6-10

Rejection of claims 6-10 is based on similar rationale as noted above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 571-272-6760. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Jeff Smith be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Robert M. Pond
Primary Examiner
November 24, 2006